

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE EVENFLO CO., INC.
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

MDL No. 1:20-md-02938-DJC

THIS DOCUMENT RELATES TO:

ALL ACTIONS

ORAL ARGUMENT REQUESTED

**DEFENDANT EVENFLO COMPANY, INC.'S MOTION TO DISMISS THE
CONSOLIDATED AMENDED CLASS ACTION COMPLAINT
UNDER FED. R. CIV. P. 12(b)(1) AND 12(b)(6)**

Pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, Defendant Evenflo Company, Inc. (“Evenflo”), by and through undersigned counsel, respectfully moves this Court for an order dismissing Plaintiffs’ Consolidated Amended Class Action Complaint (10/20/2020) (“Amended Complaint”) in its entirety for failure to satisfy Article III standing requirements under Fed. R. Civ. P. 12(b)(1), and failure to state a claim under Fed. R. Civ. P. 12(b)(6). The bases for this Motion are set forth in the accompanying *Memorandum in Support of Defendant Evenflo Company, Inc.'s Motion to Dismiss the Consolidated Amended Class Action Complaint Under Fed. R. Civ. P. 12(b)(1) and 12(b)(6)* (“Memorandum”), filed contemporaneously with this Motion.

WHEREFORE, for all the reasons set forth in the Memorandum, Evenflo respectfully requests that this Court enter an order dismissing the Amended Complaint in its entirety with prejudice.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(D), Evenflo respectfully requests oral argument on this Motion.

LOCAL RULE 7.1(A)(2) CERTIFICATION

Undersigned counsel certifies that they have conferred with Plaintiffs' counsel in accordance with Local Rule 7.1(A)(2) in connection with this Motion.

Dated: November 20, 2020

Respectfully submitted,

/s/ Lawrence G. Scarborough

Lawrence G. Scarborough (BBO No. 681285)
BRYAN CAVE LEIGHTON PAISNER LLP
1290 Avenue of the Americas
New York, New York 10104-3300
Telephone: (212) 541-2000
E-mail: lgscarborough@bclplaw.com

Dan H. Ball
Richard P. Cassetta
Timothy J. Hasken (Admitted *Pro Hac Vice*)
BRYAN CAVE LEIGHTON PAISNER LLP
211 North Broadway, Suite 3600
St. Louis, Missouri 63102
Telephone: (314) 259-2000
E-mail: dball@bclplaw.com
E-mail: richard.cassetta@bclplaw.com
E-mail: tim.hasken@bclplaw.com

Jessica R. Maziarz (Admitted *Pro Hac Vice*)
Kathryn E. Bettini (Admitted *Pro Hac Vice*)
BRYAN CAVE LEIGHTON PAISNER LLP
Two North Central Avenue, Suite 2100
Phoenix, Arizona 85004-4406
E-mail: jessica.maziarz@bclplaw.com
E-mail: kathryn.bettini@bclplaw.com

*Attorneys for Defendant
Evenflo Company, Inc.*

CERTIFICATE OF SERVICE

I, Lawrence G. Scarborough, hereby certify that this document was electronically filed and served using the Court's CM/ECF system on November 20, 2020.

/s/ Lawrence G. Scarborough

Lawrence G. Scarborough